

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Daniel Corbett,

Plaintiff,

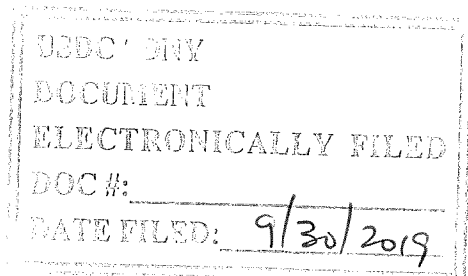
-against-

Anthony Annucci, *as acting Commissioner of the New York State Department of Corrections and Community Supervision*; Cheryl Morris, *in her individual capacity and as Director of Ministerial, Family and Volunteer Services*; Thomas Griffin, III; *in his individual capacity and as Superintendent of Green Haven Correctional Facility*; D.O.C.C.S.
Defendants.

No. 16-cv-4492 (NSR)
OPINION & ORDER

NELSON S. ROMÁN, United States District Judge

Plaintiff Daniel Corbett (“Plaintiff”), a *pro se* inmate, commenced this *pro se* action under 42 U.S.C. § 1983 on June 14, 2016. (ECF No. 2.) Plaintiff alleged various employees of the New York State Department of Corrections and Community Supervision (“DOCCS”) violated his rights under the First Amendment, Fourteenth Amendment, and New York State law. (First Am. Compl. (“FAC”), ECF No. 19.) By Opinion and Order dated February 13, 2018 (“Opinion and Order”), this Court granted in part and denied in part Defendants’ motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6). (ECF No. 33.) In particular, Plaintiff’s Fourteenth Amendment Equal Protection claim was dismissed in its entirety *without* prejudice, Plaintiff’s First Amendment claims against all Defendants in their official capacities, as well as Plaintiff’s First Amendment claims against Defendant Morris and Defendant Griffin were dismissed *without* prejudice, and Plaintiff’s claims for monetary



damages against all Defendants in their official capacities are dismissed *with* prejudice.

The Court granted Plaintiff leave until March 15, 2018, to file an amended complaint in accordance with the Court's Opinion and Order. By Order dated October 24, 2018 (the "Order") (ECF No. 34.), the Court dismissed with prejudice Plaintiff's Fourteenth Amendment Equal Protection and First Amendment claims. As a result, all that remain are Plaintiff's state law claims. The Court also directed the parties to confer and to submit a case management plan so that discovery would commence. More than twelve months have passed since the Court issued the Order. To date, Plaintiff has taken no action to prosecute his remaining claims. Accordingly, the Court in its discretion decides not to exercise supplemental jurisdiction and Plaintiff's state law claims are deemed dismissed without prejudice to recommence in state court.

CONCLUSION

For the foregoing reasons, Plaintiff's state law claims are deemed dismissed without prejudice. Defendants' November 16, 2018 letter motion (ECF No. 37) seeking a pre-motion conference and December 17, 2018 letter motion (ECF No. 39) seeking an extension of time are both denied as moot. The Clerk of the Court is respectfully directed to terminate motions (ECF Nos. 37 and 39), to terminate the action, to serve a copy of this Order upon Plaintiff at his last known address, and to show proof of service on the docket.

Dated: September 30, 2019
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge